

## DISCUSSION

### 2024-0519 Discussion of Planning Commission Bylaw Updates

*(McLeod Memo dated 11-13-24, and PC By-Laws Potential Updates dated 11-13-24 had been placed on file and by reference became a part of the record thereof.)*

*Mr. McLeod explained that one of the items on Staff's to-do list for quite some time is to update the By-Laws of the Planning Commission. He noted that he, Ms. Roediger, and Ms. MacDonald have gone through the By-Laws and proposed what he feels are probably fairly minor changes to try to modernize the By-Laws as well as bring them up to speed with any changes in Zoning and Planning Law. He commented that if anyone has any questions on any particular change, he will be more than happy to explain why that change is proposed. He stated that if the Commission finds them acceptable or acceptable with any announced changes made tonight, the Commission will be able to vote on them at the next Regular Meeting.*

*Chairperson Brnabic noted that on Page 4, Section 7, it states that anytime the Secretary is absent, another commissioner must be appointed to serve that night.*

*Mr. McLeod responded that it is permissive, but not required.*

*Chairperson Brnabic noted that the word "may" meant she can or cannot.*

*Mr. McLeod explained that the way it is written, the Chair may appoint an acting secretary at the Chair's discretion if it was felt necessary to do so.*

*Chairperson Brnabic noted that in Section 5, on Page 6, the addition is that the City would like to see the Planning Commission have roll call votes on all motions for business.*

*Mr. Hooper added that it is "except as modified by Chairman".*

*Chairperson Brnabic noted that she could make the choice for a voice vote, but it looks like what is listed is to for a roll call.*

*Mr. McLeod responded that for anything that requires affirmative action such as a permit or a development, it is always best practice to have a roll call. He added that anyone can request a roll call at any point for any motion; but if it is for minutes or correspondence, or anything that is acceptance of correspondence, those things can be done as a voice vote.*

*Chairperson Brnabic mentioned conditional use, site plans or tree removal permits, and commented that it is sort of like a verification, and they would like to see roll call votes.*

*Mr. McLeod responded that he did not know if the Commission feels differently*

as a whole, but that is the recommendation at this point. He stated that if they do not want to read it that way, it can be redrafted; but otherwise if this is adopted, it would be a roll call for each one of those.

Chairperson Brnabic noted that the draft has added the Secretary as an officer in the event that the Chair and Vice Chair are missing. She commented that this usually doesn't happen but it is a good option. She stated that she has missed two meetings in nine years as Chair. She expressed surprise that it states that if the three officers are not present, the Commission would get together and by voice vote name a Chairperson for the night. She asked if that was common because she does not believe she has ever seen that in an organization.

Mr. McLeod responded that it has happened in his past, and while highly unlikely it is possible. In that instance the Planning Commission, by lack of any other direction, would have to take that vote, and noted that it is simply a motion for someone to nominate someone to be Chair for that night, a second to the motion, and a vote.

Chairperson Brnabic stated that she did not have any objection, but just found it different.

Mr. McLeod responded that hopefully it will never happen, and is one of those provisions that sits there forever and everyone wonders why it is there and it is never used.

Mr. Struzik mentioned the section where it says members of the Planning Commission may hold no other municipal office and asked if that would include boards like Public Safety and Infrastructure Technical Review Committee.

Mr. McLeod noted that this requirement gets a little unclear. He stated that the nature of the law basically states that Commissioners are not supposed to hold another paid position, as in the Zoning Board of Appeals standpoint. He stated that Public Safety is not paid.

Mr. Struzik expressed concern that someone might read and interpret it that way.

Mr. McLeod responded that something could be drafted that says unless otherwise appointed to a non-pay committee.

Mr. Struzik stated that he would want to see some clarity, and he pointed out that Mr. Hooper sits on other boards as well. He commented that he would hate to lose some of those voices on other boards through ambiguity. He asked if there was a place that defines the duties of Secretary, and ask if that should be clarified; such as specifically generating a year-end report or keeping notes or notices.

Mr. McLeod stated that most notices come via the Chair, and do not come via the Secretary and commented that this should probably be updated as well.

*Mr. Struzik stated that he would appreciate seeing the definition in writing as to how things are done.*

*Mr. Hooper mentioned Section 3, Page 2, noting that a member may after written charges in a public hearing be removed from the Commission by the City Council for misfeasance, malfeasance and nonfeasance in office. He stated that malfeasance is intentional conduct as wrongful or unlawful, especially by officials or public employees, and he understands that misfeasance refers to an action that is unintentional; while malfeasance is the willful act. Nonfeasance is the omission to perform a required duty or the failure to act when a duty to act existed, and he stated that it can be more loosely defined as not doing something which you ought to do. He asked how that would be defined in terms of the Planning Commission. He commented that it is a slope where one could see both sides of every argument on that one.*

*Mr. McLeod noted that this is basically out of State Law and how it is defined. He stated that for nonfeasance, if a Commissioner refuses to vote on something because they do not want to look bad or do not want to commit one way or the other, that would be nonfeasance because they are required to vote unless they have an issue in terms of monetary conflict or other conflict of interest. He commented that nobody can vote "Present" or abstain just because they want to.*

*Mr. Hooper stated that he has never seen that and it was not even in the City Council items.*

*Mr. McLeod noted that it was one of the terms that was actually amended into the State Law and something they had to update.*

*Mr. Hooper asked if Mr. Staran reviewed the By-Laws.*

*Mr. McLeod stated that he can send them to Mr. Christ now, as they are not certain what Mr. Staran's status is as he is not reachable at this point. He stated that he will write in the amendments that Mr. Struzik brought up and run them past the City Attorney.*

*Chairperson Brnabic noted that determination of a quorum was removed and asked why. She stated that she previously had to state that there was a determination of a quorum during attendance.*

*Mr. McLeod noted that it does not show up on the actual agenda order and it was taken out to match the order of business.*

*Chairperson Brnabic asked if this will move forward to the City Attorney and then come back to the Commission for approval.*

*Mr. McLeod confirmed that they would.*